

**REMARKS**

**Summary Of The Office Action & Formalities**

**Status of Claims**

Claims 1-20 are all the claims pending in the application. By this Amendment, Applicant is canceling 7, 19, and 20; amending claims 1, 9, and 10; and adding new claims 21-23. No new matter is added.

**Drawings**

The drawings are objected to under 37 CFR 1.83(a). Applicant's amendment to the claims renders this objection moot.

**Claim Rejections - § 112**

Claims 7 and 10 are rejected under 35 U.S.C. § 112, second paragraph, for the reason set forth at page 3 of the Office Action. Applicant is amending the claims to overcome this rejection.

**Allowable Subject Matter**

Claims 12-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Art Rejections**

1. Claims 1-11 are rejected under 35 U.S.C. § 102(b) as being anticipated by Mankouski (US 2,218,005).

2. Claims 17 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Mankouski (US 2,218,005) in view of Garcia et al. (US 6,581,852).

3. Claims 19 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Garcia et al. (US 6,581,852) in view of Wakeman (US 3,254,677).

Applicant respectfully traverses the art rejections.

***Claim Rejections - 35 U.S.C. § 102***

***1. Claims 1-11 In View Of Mankouski (US 2,218,005).***

In rejecting claims 1-11 in view of Mankouski (US 2,218,005), the grounds of rejection state:

Mankouski discloses a fluid dispenser comprising: a fluid reservoir 19, at least one dispensing orifice 17, a fluid feed duct 45, a valve 31/41, an actuating means 24, wherein the actuating means 24 moves transversely to the valve axis 5-5, the actuating means also having a force transmitting means 29 and a closure member 41 selectively comes into place in front of orifice 17 (see figure 4).

Office Action at pages 3-4.

Mankouski relates to a dentifrice dispenser that operates using gravity. The reservoir is located above the dispensing orifice 17, so that the dentifrice flows down by gravity. In order to close the orifice, the dispenser is provided with a plunger 31, which is movable away from the orifice 17 through a push button 24. This button is coupled to an inclined surface 28 engaging a rounded edge 29 formed by the plunger 31. When a user pushes the button 24, the transverse force is transformed into an axial force on the plunger, causing the plunger to open the orifice 17. Therefore, the button 24 moves the plunger to a passageway-opening position allowing the dentifrice to flow down by gravity.

There are several patentably distinct features of the fluid dispenser according to claim 1 of the present application.

For example, in the fluid dispenser according to claim 1 of the present application, the actuation means moves the valve member to a passageway-closure position.

Another difference, which relates to the distinguishing feature noted above, is that the valve member in the fluid dispenser according to claim 1 of the present application opens and closes the outlet of a feed duct and not the dispensing orifice, as in Mankouski. That is why the valve member is urged in a passageway-closure position through the actuating means, with fluid product remaining at the dispensing orifice, even in the closure position.

When the feed duct is open, the fluid is substantially stopped at the dispensing orifice. The valve is a security feature, and the dispenser of claim 1 may work without the valve. In Mankouski, the plunger is absolutely necessary.

In order to dispense fluid, dispensing means has to be actuated. In the Applicant's description, this dispensing means is advantageously a vibrating plate.

To further clarify this distinction, claim has been amended to recite that the dispenser also comprises "dispensing means for ejecting fluid through the dispensing orifice".

For at least the foregoing differences, the Examiner is kindly requested to reconsider and withdraw the rejection of claim 1 and rejected claims that depend from claim 1.

**Claim Rejections - 35 U.S.C. § 103**

*1. Claims 17 And 18 Over Mankouski (US 2,218,005) In View Of Garcia et al. (US 6,581,852).*

In rejecting claims 17 and 18 over Mankouski (US 2,218,005) in view of Garcia et al. (US 6,581,852), the grounds of rejection state:

Mankouski teaches all the limitations of the claims except for a vibratory plate and a piezoelectric element. However, Garcia et al. discloses a fluid dispensing device with a vibratory plate 61 with at least one dispensing orifice 62, and a piezoelectric element 63. Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Mankouski with a vibratory plate and a piezoelectric element as suggested by Garcia et al. Doing so would provide a way to dispense fluid (column 1, lines 40+).

Office Action at page 4.

Claims 17 and 18 are allowable at least by reason of their dependencies.

Furthermore, regarding the combination of Mankouski with Garcia, even if (for the sake of argument) one were to have combined the teachings of these two patents, the combination would lead to a dispenser wherein a valve closes and opens the dispensing orifice, *i.e.*, the plurality of holes 62 formed in the vibrating plate 61. This is not what is recited in claim 17. Rather, in the dispenser according to claim 17, the outlet of a feed duct is closed and opened—not the dispensing orifice.

In fact, the dispensing orifice is formed in the vibrating plate, which is fragile. The orifice 17 in Mankouski is not fragile. Neither Mankouski nor Garcia shows an outlet duct closed by a valve, the outlet duct not being the dispensing orifice.

***2. Claims 19 And 20 Over Garcia et al. (US 6,581,852) In View Of Wakeman (US 3,254,677).***

In rejecting claims 19 and 20 over Garcia et al. (US 6,581,852) in view of Wakeman (US 3,254,677), the grounds of rejection state:

Garcia et al. teaches all the limitations of the claims except for a closure member that is selectively came into place in front of the dispensing orifice. However, Wakeman discloses a fluid dispensing device with a closure plate 62 that is selectively came into pace in front of the dispensing orifice 64 (see figure 3). Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Garcia et al. with a closure member that is selectively came into place in front of the dispensing orifice as suggested by Wakeman. Doing so would provide a way for self-sealing a fluid dispenser (see column 1, line 10+).

Office Action at pages 4-5.

Without prejudice or disclaimer, Applicant has canceled claims 19 and 20.

***New Claims***

For additional claim coverage merited by the scope of the invention, Applicant is adding new claims 21-23, which are allowable at least because these claims require a cam that, when actuated, moves the valve member from the passageway-opening position to the passageway-closure position; and a dispensing mechanism that, when actuated, ejects fluid through the orifice; and wherein the cam is movable transversely to the valve axis and, when actuated, exerts a transverse thrust force that moves the moving valve member towards the passageway-closure position.

***Conclusion***

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

*Amendment Under 37 C.F.R. § 1.111*  
*U.S. Application No. 10/779,846*

*Attorney Docket No.: Q75158*

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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